

**BEFORE THE MISSOURI REAL ESTATE COMMISSION**

MISSOURI REAL ESTATE COMMISSION	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 16-3310RE
	)	
	)	
MARY ROSLYN SMITH	)	
	)	
Respondent.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND DISCIPLINARY ORDER**

On or about September 26, 2016, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Mary Roslyn Smith*, No. 16-3310RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Mary Roslyn Smith's real estate broker license (license no. 1999103814) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2(15), RSMo.<sup>1</sup>

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on February 1, 2017, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

---

<sup>1</sup> All statutory references are to the Revised Statutes of Missouri 2000, as amended, unless otherwise indicated.

the meeting. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Ross Keeling. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

**I.**

**FINDINGS OF FACT**

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Mary Roslyn Smith*, Case No. 16-3310RE, issued September 26, 2016, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent Mary Roslyn Smith as a real estate broker, license number 1999103814. Respondent's broker license was not current at all times relevant to this proceeding. On June 30, 2016 Respondent's broker license expired.

## II.

### CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated September 26, 2016, in *Missouri Real Estate Commission v. Mary Roslyn Smith*, Case No. 16-3310RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated September 26, 2016, Respondent's real estate broker license, number 1999103814, is subject to disciplinary action by the Commission pursuant to § 339.100.2(15), RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

## III.

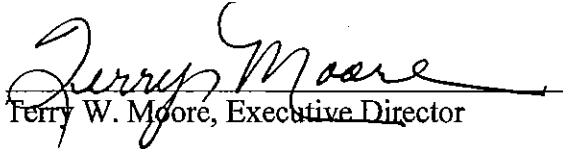
### ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate broker license of Mary Roslyn Smith (license no. 1999103814) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission within 30 days of this Order along with a Closing of a Real Estate Brokerage/Sole Proprietorship form, if Respondent has not already done so.

The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 3<sup>rd</sup> DAY OF February, 2017.

MISSOURI REAL ESTATE COMMISSION

  
Terry W. Moore, Executive Director

Before the  
Administrative Hearing Commission  
State of Missouri



REAL ESTATE COMMISSION  
Petitioner,

v.

MARY ROSLYN SMITH  
Respondent,

No. 16-3310

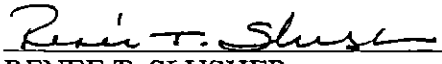
**DEFAULT DECISION**

On August 3, 2016, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail on August 11, 2016.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2013), we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on September 26, 2016.

  
RENEE T. SLUSHER  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

AUG 03 2016

ADMINISTRATIVE HEARING  
COMMISSION

Missouri Real Estate Commission )  
3605 Missouri Boulevard )  
P.O. Box 1339 )  
Jefferson City, MO 65102-1339 )  
(573)751-2628 )

Petitioner, )

v. )

Case #: \_\_\_\_\_

Mary Roslyn Smith )  
2 Forest Park Circle )  
Lake St. Louis, MO 63367 )  
(636) 561-2844 )

Respondent. )

**COMPLAINT**

Petitioner, Missouri Real Estate Commission, by and through the Attorney General of the State of Missouri, and for its cause of action against Respondent, Mary Roslyn Smith, states the following:

1. The Missouri Real Estate Commission ("MREC") is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo,1 for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers and Escrow Agents.

---

1 All statutory references are to the Revised Statutes of Missouri, as amended, unless otherwise indicated.

2. Respondent Mary Roslyn Smith holds a broker license from the MREC, license number 1999103814. The MREC issued Smith's license on February 17, 1998. Smith's license expired June 30, 2016, but was active prior to that date.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Sections 621.045 and 339.100.2, RSMo.

### **APPLICABLE LAWS**

4. Section 339.100.2, RSMo, states in part:

(2) The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

\* \* \*

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860.

5. The MREC has promulgated a valid regulation at 20 CSR 2250-8.170(1), which states:

Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

6. On December 9, 2015, Joseph Denkler, Executive Director of the MREC, sent Smith a letter following an audit of her real estate business. The letter included an attachment detailing the violations of MREC statutes and regulations identified during the audit. The letter directed Smith to review the findings and implement the necessary procedures to ensure future compliance.

7. The letter directed Smith to submit a copy of her license or request a duplicate license within the next thirty days. The letter also stated that Smith's failure to take corrective action and respond could result in discipline of her license pursuant to 20 CSR 2250-8.170(1).

8. The MREC received no response to its December 9, 2015 letter.

9. On January 26, 2016, Denkler sent Smith a second letter stating that the MREC received no response to the December 9, 2015 letter and putting Smith on notice that she had 30 days to respond pursuant to regulation 20 CSR 2250-8.170 or that the matter would be referred for discipline of Smith's license.

10. The MREC received no response to its January 26, 2016 letter.



11. On March 14, 2016, Denkler spoke with Smith at the telephone number she registered with the MREC. Smith acknowledged that she had not responded to the correspondence but that she would either request a duplicate license or file a closing affidavit because she was considering not renewing her license.

12. Denkler followed up the telephone conversation with an email and asked for a response by March 18, 2016.

13. Smith did not respond by March 18, 2016 or submit any documentation.

14. Denkler sent a second email on March 23, 2016, restating the previous requests and informing her that action could be taken against her license if she failed to correct or respond.

15. The MREC received no additional response or documentation from Smith.

16. Smith's conduct, and specifically Smith's repeated failure to respond within 30 days of written request, violated 20 CSR 2250-8.170(1), which constitutes cause to discipline Smith's license pursuant to § 339.100.2(15), RSMo.

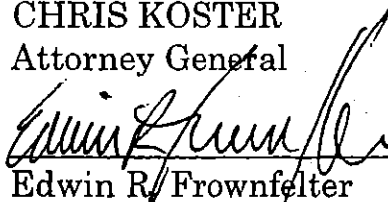
WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to sections 621.015 to

621.205, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent Mary Roslyn Smith's Real Estate Broker license under the relevant provisions of Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER

Attorney General



Edwin R. Frownfelter

Assistant Attorney General

Missouri Bar No. 59477

615 East 13<sup>th</sup> St., Suite 401

Kansas City, MO 64106

Telephone (816) 889-5019

Facsimile No. (816) 889-5006

Email: [edwin.frownfelter@ago.mo.gov](mailto:edwin.frownfelter@ago.mo.gov)

Attorneys for Petitioner